

Amendment No. 1 to SB0540

Crowe
Signature of Sponsor

AMEND Senate Bill No. 540*

House Bill No. 995

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

(a) For the purposes of this section:

(1) "Diagnosed mental illness" means a serious psychological condition, including, but not limited to, major depressive disorder, anxiety disorder, psychosis, bipolar disorder, personality disorder, and post-traumatic stress disorder, or any disorder found in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders; and

(2) "Psychotherapy" means an intervention for a diagnosed mental illness by a licensed mental health professional.

(b)

(1) A consumer is entitled to care from a competently qualified person when receiving care for a diagnosed mental illness.

(2) A license is required under title 63 for a person to competently treat a diagnosed mental illness. An unlicensed person is not competent to provide services that fall within any scope of practice for which a license is required under title 63 for treatment of a diagnosed mental illness.

(c)

(1) An unlicensed person may be civilly liable to the client if the unlicensed person knowingly offered psychotherapy services to treat a diagnosed mental illness without being licensed as a mental health provider.

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(2) The client may maintain an action to recover damages for the unlicensed psychotherapy treatment of a diagnosed mental illness, including consideration paid to the unlicensed provider, costs in recovering consideration paid, and reasonable attorney's fees as determined by the court.

(d) The following persons are exempt from this section:

(1) Clergy who are not being compensated on a fee-for-service basis;

(2) Students and practitioners in training when the student or practitioner is under the lawful supervision of a licensed healthcare professional;

(3) Persons holding a license under title 63 when acting within the lawful scope of practice;

(4) An unlicensed person operating under the supervision of a person holding a license under title 63, providing counseling or therapy services in a correctional facility;

(5) Any service provider at a homeless shelter, licensed behavioral health residential facility, hospital, or any state-operated agency or facility;

(6) State-contracted mobile crisis responders;

(7) An unlicensed person operating under the supervision of a person holding a license under title 63 providing counseling or therapy services in a community mental health center; and

(8) Any person providing peer counseling or social services not on a fee-for-service basis.

(e) This section does not expand or restrict the scope of practice for any person holding a license under title 63.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.